

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHAKEENA GAILLARD, as Proposed Administrator of the
Estate of PIERRE CANN,

Plaintiff,

NOTICE OF REMOVAL

- against -

Case No. 21 Civ. 8324

THE CITY OF NEW YORK, POLICE OFFICER DWAYNE
CARTER, SHIELD No. 3894, and POLICE OFFICERS JOHN
DOES NUMBERS ONE THROUGH TEN,

Law Dept. No.:
2021-023817

Defendants.

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**TO: THE UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK**

Defendants THE CITY OF NEW YORK and POLICE OFFICER DWAYNE CARTER,
(hereinafter "Defendants"), by and through their attorney, Georgia M. Pestana, Corporation
Counsel of the City of New York, respectfully show this Court as follows:

1. On August 20, 2021, Plaintiff, SHAKEENA GAILLARD, as Proposed
Administrator of the Estate of PIERRE CANN (hereinafter SHAKEENA GAILLARD),
commenced this action by filing a Summons and Complaint in the Supreme Court of the State of
New York, County of Bronx, under Index No. 811357/2021E, naming THE CITY OF NEW
YORK, DWAYNE CARTER, and JOHN AND JANE DOE 1-10¹, as defendants therein, and
setting forth the claims for relief upon which the action is allegedly based, including various federal
and state law claims. See Plaintiff's Summons and Complaint, annexed hereto as "Exhibit A."

2. Upon information and belief, Police Officer DWAYNE CARTER was served with
the Summons and Complaint in the above-entitled action pending in the Supreme Court of the

¹ Plaintiff has not yet identified JOHN and JANE DOE 1-10 as named Defendants in this matter.

State of New York, County of Bronx, under Index No. 811357/2021E, at 4111 Laconia Avenue, Bronx, NY 10466, on September 8, 2021. See Affidavits of Service of the Summons and Complaint on Police Officer Dwayne Carter collectively annexed hereto as “Exhibit B.”

3. Upon information and belief, the City of New York was served with the Summons and Complaint on August 24, 2021, at 100 Church Street, New York, NY. See Affidavit of Service of the Summons and Complaint on the City of New York, annexed hereto as “Exhibit C.”

4. The above-captioned action is a civil action of which the United States District Court now has original jurisdiction in that it includes causes of action which arise under the Constitution and laws of the United States, pursuant to 28 U.S.C. § 1331. This action is therefore removable to the United States District Court without regard to the citizenship or residence of the parties.

5. Plaintiff brings this lawsuit pursuant to 42 U.S.C. § 1983 alleging, *inter alia*, federal claims of false arrest, malicious prosecution, excessive force, failure to intervene, and denial of the right to a fair trial, all in violation of the First, Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution. See Ex. A. Plaintiff also asserts state law claims for negligence, intentional infliction of emotional distress, assault, battery, false arrest, false imprisonment, and malicious prosecution. See id.

6. This Notice of Removal is timely because it is being filed within thirty (30) days of service on Police Officer DWAYNE CARTER of the Summons and Complaint on or about September 8, 2021, and all defendants consent to its removal. See 28 U.S.C. § 1446(b).

7. Defendants will promptly file a copy of this Notice of Removal with the Clerk of the state court in which the action has been pending.

8. Defendants are unaware of any previous application for the relief requested herein.

WHEREFORE, Defendants respectfully requests that the above-captioned action be removed from the Supreme Court of the State of New York, County of Bronx, to the United States District Court for the Southern District of New York.

Dated: New York, New York
October 8, 2021

GEORGIA M. PESTANA
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and POLICE OFFICER DWAYNE CARTER*
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